IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.3514 OF 2006
IN
SUIT NO.802 OF 2004

Colamai Pallonji Mistry ....Plaintiff
V/s.
Homiyar Aibada ....Defendant

Mr.Kamal Khata i/b RMG Law Associates for the Defendant in support.
Mr.Girish Desai i/b P.M.A. Nair for the Plaintiff to show cause.

CORAM : S.J. VAZIFDAR, J.
DATED : 21ST NOVEMBER, 2006.

P.C. :

1. By this Notice of Motion, the Defendant seeks an order setting aside the ex-parte order and judgment dated 27.7.2006. The decree was passed under order 8 Rule 10 of the Code of Civil Procedure. On the date on which the decree was passed, the Defendant's name was not shown on the board. Further the order does not reflect the Court as having been informed that in fact the written statement had been filed on 14.9.2004 and a copy thereof was served on the Plaintiff. Through inadvertence the number of suit was mentioned as 787 of 2004 instead of 802 of 2004.

2. In the circumstances, the Notice of Motion is

made absolute in terms of prayers (a) and (b).